

**PUBLIC MEETING  
APRIL 6, 2010  
MINUTES**

Chairman Mike Murray called the meeting to order at 9 a.m. Commissioner Derek Brown and Commissioner Andy Hunthausen were present. Others attending all or a portion of the meeting included Kelly Blake, Eric Bryson, K. Paul Stahl, Lindsay Morgan, Michele Peterson, Jeff Sealey, Audra Zacherl, Jesse Whitford, Rebecca Shaw, Jack Walsh, Mark Simonich, Kim Smith, Jim Taylor, Carol Hollow, George Hall, Terry Myhre, Michael Mayer and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

- a. Section 00500 Agreement Between Lewis & Clark County and Mockel Precast and Excavating Co., Inc. for Road Preparation and Paving of Roadway for Autumn Wind Court. (Jesse Whitford)
- b. Resolution 2010-118 Ordering a Refund of Taxes/Fees/Assessments Paid by Michael Sustarsic in the Amount of \$24.67. (Cheryl Green)
- c. Resolution 2010-119 Ordering a Refund of Taxes/Fees/Assessments Paid by Theodore P. and Marcia J. Lewis in the Amount of \$120.87. (Cheryl Green)
- d. Resolution 2010-120 Ordering a Refund of Taxes/Fees/Assessments Paid by Bruce A. Anderson in the Amount of \$205.49. (Cheryl Green)
- e. Resolution 2010-121 Ordering a Refund of Taxes/Fees/Assessments Paid by Richard and Sara Morris in the Amount of \$286.38. (Cheryl Green)
- f. Montana Business Assistance Connection (MBAC) Support Letter for the East Helena Industrial Park. (Eric Bryson)

CAO Bryson reported on the consent action items and recommended approval.

Commissioner Brown pulled consent item 'a' for discussion. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Commissioner Brown moved approval of the remaining consent action items 'b' through 'f' and authorized the Chair to sign. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Consent Action Item a. After discussion with staff, the Public Works Department recommended that this item be tabled to next Tuesday. Commissioner Brown moved to table this item until April 13 as requested by staff. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Amended Plat of Lot A - Guettler Subdivision No. 2 (Applicant: Kim Smith) (Planner: Lindsay Morgan) The Commissioners will consider the Applicant's request to reduce his security for his Subdivision Improvements Agreement.

Lindsay Morgan provided information pertaining to Mr. Smith's request. The improvements should have been completed by March 24, 2010. The letter of credit accompanying the most recent amendment to the Subdivision Improvements Agreement will expire on April 24. The reduction in security would include the removal of any costs associated with any off-site road improvements. These road improvements have not been completed. The applicant provided cost estimates in his request.

Kim Smith, 7510 Applegate Drive, asked for relief on bonding for his off-site road improvements due to the increased cost for bonding and since it has not yet been determined by the court what percent, if any, he would be required to pay and install.

Commissioner Hunthausen asked Mr. Smith if he explored the amended conditions of approval process. Mr. Smith stated no.

Commissioner Brown explained the county's position regarding other remedies and other type of financial guarantee that the applicant could provide at not cost to him. Mr. Smith stated if his request is denied he would purchase the bond.

No public comments were received.

Commissioner Hunthausen moved that the Commission take the information under consideration and render a decision on Tuesday, April 13. Commissioner Brown seconded the motion. The motion carried 3-0.

Proposed Subsequent Minor Subdivision, Amended Plat of Lot 5CD – Lamb Ranchettes. (Applicant: Carol Hollow) (Planner: Michele Peterson). The Commissioners will consider creating two lots, each for one single-family dwelling. The applicant is requesting four variances from; (1) fire protection requirements; (2) no lot having an average length greater than three times its average width; (3) length of a dead-end road; and (4) providing two ingress-egress routes and providing legal and physical access to the subdivision. The property is generally located east of and adjacent to Juniper Drive and northeast of Stable Road.

Michele Peterson presented the staff report. The proposed subdivision lies within Special Zoning District No. 41. The applicant's existing uses on the property violate the regulations with regards to setbacks, building type, number of single-family dwellings per lot. The county may not enforce these provisions of the zoning regulations pursuant to a stipulated dismissal of a lawsuit. Deed restrictions also exist on the property. The placement of the current mobile home on the property violates the deed restriction on the property and due to the same lawsuit, the county cannot enforce the deed restriction. Consequently, the violation of the zoning regulations and the deed restrictions are not a basis to deny the subdivision. Any new or additional development on the subject property must comply with zoning regulations and deed restrictions. A restrictive covenant would be placed on the property requiring that owners utilize best management practices for grazing. Property owners shall waive their right to protest

joining a water and sewer district to fund the installation or maintenance of a public water and/or sewer system. Juniper Drive and Stable Road do not meet county road standards. A 100-foot setback, which includes a 50-foot non-disturbed buffer, is required on both sides of the ordinary high water mark of the Type III water course. Noxious weeds were identified on-site and a weed management would be required.

Staff recommended approval of the proposed subdivision subject to 11 conditions of approval as outlined in the staff report. Staff also recommended that condition 8.a be changed to read, "notification that lots 5CD-1 and 5CD-2 be approved for one single-family dwelling." Both lots would be required to obtain approach permits from the county road department to comply with current regulations.

Carol Hollow stated she would like to split the 20+ acre parcel of land at 3515 Juniper Drive into two 10+ acre pieces in order to comply with county regulations.

Jim Taylor, 8422 Diamond Springs Drive, presented justification for each of the four variances. He was not aware of an RID or a homeowners' association that has contributed maintenance of Juniper Road.

Jerry Shepherd, West Valley Fire Chief, requested that the Commission deny the variance on fire protection and that the developer and West Valley meet to come up with an alternative plan. The closest hydrant to this area would be at Pleasant Valley Subdivision.

George Hall, 3490 Juniper. His concern was the variance from providing two ingress/egress routes. Other concerns included the additional traffic, too much surface water on the parcels, a commercial garage business in an agricultural area, and the illegal trailer house.

No other public comments were received.

Jim Taylor agreed to work with Pleasant Valley and/or the city to use those fire hydrants or add a condition of approval. The applicant's intent was to form a legal subdivision of this property. The trailer house would be replaced by a stick-built house. In the event of any future RID, these two lots would waive rights to protest any RID.

Michele Peterson stated that any new development on the property would have to meet the zoning regulations. With this division of the land the applicant would be bringing the property into further compliance with the zoning regulations. The ingress/egress refers to the accesses in and out of the subdivision, not on and off the property.

The public hearing was closed. Commissioner Brown moved to render a final decision Tuesday, April 13. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

BREAK – 10 minutes.

Proposed Approach – Glacier Point Subdivision Lot 12. (Applicant: Michael Mayer). The Commissioners will consider a proposed approach for Glacier Point Subdivision Lot 12.

Michele Peterson presented the staff report. The applicant has requested an appeal of staff's interpretations of the regulations regarding his requested approach permit. Mr. Mayer applied for the approach on March 3, 2010. Planning staff inspected the proposed approach and found it to be roughed in and not in compliance with county regulations. At a later date, public works staff inspected the approach and found that it was also not in compliance with county regulations. The proposed approach failed to meet the requirement of 40 feet from centerline to centerline from surrounding driveways and roads. Therefore, planning staff denied the proposed approach location and sent it back to Public Works.

For the record, Mr. Mayer came to Commissioner Murray's office and talked about the problem; Commissioner Murray listened. Commissioner Brown had a discussion with Jack Hamlin who expressed concerns that many of the lots by this interpretation would not be buildable.

Michael Mayer, 7704 US Highway 12 West, talked about the lot configurations in this subdivision and the impact it made to other lots. The lots are very small making them difficult to build on.

Kelly Blake stated that in this case staff was operating and interpreting the requirements under Table A of the 2005 Regulations, Appendix K at that time. This was an unusual situation where it was a problem to meet the setback requirement. The county may need to review the subdivision regulations to address these types of situations. Mr. Mayer has the ability to appeal the planning staff decision. The variance requirements and driveways are part of county regulations and must be enforced.

Discussion continued relating to the implied interpretation, the purpose of spacing for driveways, recognizing the deficiency in the regulation, and finally, a need to find a remedy to help out these lot owners.

CAO Bryson stated the Commission's options are two-fold: 1) to establish if there was any legitimacy in staff's interpretation of these regulations; 2) provide some direction about what was the intent of the regulations with respect to intersection spacing as it relates to the installation of a driveway.

No other public comments were received.

Commissioner Hunthausen moved to render a decision Tuesday, April 13. Commissioner Murray seconded the motion. Commissioner Brown was ready to make the determination today. This is not a written regulation and he does not know of any mechanism to do a variance from an interpretation of a regulation. The motion carried

2-1. Commissioner Brown voted no.


Public comments on any public matter within the jurisdiction of the Commission that is not on the agenda above. None.

There was no other business, the meeting adjourned at 11:03 a.m.


LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

  
Michael A. Murray, Chairman

  
Derek Brown

  
Andy Hunthausen

ATTEST:

  
Paulette DeHart, Clerk of the Board